

**PUBLIC HOSPITALS (VISITING MEDICAL OFFICERS SESSIONAL
CONTRACTS) DETERMINATION 2007**

1. TITLE

This Determination shall be known as the "Public Hospitals (Visiting Medical Officers - Sessional Contracts) Determination 2007".

2. ARRANGEMENT

This Determination is arranged as follows:

Clause Number	Subject Matter
1	Title
2	Arrangement
3	Definitions
4	Contract for Services
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13	Professional Support for Regional Practitioners
14	Record of Services
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Schedule 1	Regional Hospitals
Annexure A	Sessional Visiting Medical Officer Rates
Annexure B	Background Practice Cost and On-call Rates
Annexure C	Regional Visiting Medical Officer Arrangements

3. DEFINITIONS

In this Determination:

“AMA (NSW)” means the Australian Medical Association (NSW) Ltd;

“appointment” means appointment as a visiting medical officer and includes reappointment and promotion; and appointed, re-appointed and promoted have a corresponding meaning;

“approved contract of liability coverage” means a contract for professional indemnity cover by the NSW Treasury Managed Fund in a form approved by the NSW Department of Health and offered by public health organisations to visiting medical officers;

“approved professional indemnity insurance” is as defined in the *Health Care Liability Act 2001*;

“call-back” means called to attend a hospital, whether or not rostered on-call, at a time when the visiting medical officer would not otherwise have attended the hospital, in response to a request from the relevant hospital or public health organisation to attend for the purpose of providing services;

“clinical privileges” means the clinical privileges as defined in the *Health Services Act 1997*;

“general practitioner” means a medical practitioner who is not a specialist;

“hospital” means a hospital as defined in the *Health Services Act 1997*;

“medical practitioner” means a person registered for the time being under the *Medical Practice Act 1992*;

“on-call” means rostered to be available to attend public patients pursuant to an on-call roster prepared by a public health organisation in consultation with the relevant clinical department;

“private patient” means a patient who is not a public patient;

“public health organisation” is as defined in Chapter 2 of the *Health Services Act 1997*;

“public patient” means a patient in respect of whom the public health organisation provides comprehensive care, including all necessary medical, nursing and diagnostic services, by means of its own staff or by other agreed arrangements;

“regional hospital” means a hospital listed in Schedule 1 to this Determination;

“regional visiting medical officer” means a visiting medical officer:

- (i) who is appointed for a continuous period of at least 12 months under one or more service contracts in respect of one or more regional hospitals; and
- (ii) who is engaged under standard contract arrangements approved by the NSW Department of Health.

“senior specialist” means a specialist who has practiced as such in a speciality for at least seven

years and who is required under a sessional contract to render services the adequate performance of which services requires a specialist of that status;

“services” means medical services provided to a public patient by a visiting medical officer under a sessional contract, including teaching, training and participation on committees, but excluding attendance at meetings of a medical staff council (howsoever called);

“service contract” means a service contract as defined in the *Health Services Act 1997*;

“sessional contract” means a sessional contract as defined in the *Health Services Act 1997*;

“specialist” means a medical practitioner, other than a general practitioner, who -is a specialist as defined in the *Health Insurance Act 1973* (Commonwealth) and who is required under a sessional contract to render services the adequate performance of which services requires a medical practitioner of that status;

“visiting medical officer” means a visiting medical officer as defined in the *Health Services Act 1997* who provides services under a sessional contract, but excluding a pathologist and a radiologist; and

“visiting practitioner” means a visiting practitioner as defined in the *Health Services Act 1997*.

4. CONTRACT FOR SERVICES

- (1) A visiting practitioner who is to be appointed as a visiting medical officer to provide services under a service contract on a sessional basis shall be so appointed by a written sessional contract between the officer and public health organisation. The sessional contract shall specify the terms and conditions to which the officer is to be subject, including the clinical privileges of the officer as determined or varied from time to time by the public health organisation in accordance with any applicable Act, regulation or by-law and after advice from the appropriate credentials committee in respect of the hospital or hospitals at which the visiting medical officer provides services.
- (2) Except as otherwise affected by this Determination, the period for which a visiting medical officer may be appointed to a public health organisation is to be such period (not exceeding the maximum term specified in the *Health Services Regulation*) as the public health organisation may determine and as is specified in the sessional contract.
- (3) A visiting medical officer appointed to a public health organisation is, if otherwise qualified, eligible for but not entitled to re-appointment upon the expiry of the existing sessional contract. In the event of re-appointment, a new sessional contract shall be made.
- (4) A sessional contract shall not establish the relationship of employer and employee as between the respective parties thereto, and a visiting medical officer shall, in providing services under a sessional contract, be and be regarded as an independent contractor.
- (5) A visiting medical officer shall provide the services specified in the sessional contract to public patients at the relevant hospital or hospitals, consistent with the clinical privileges granted to the officer under the sessional contract.

- (6) A visiting medical officer shall participate in the teaching and training of postgraduate medical officers as may reasonably be required by the public health organisation.
- (7) A visiting medical officer shall participate in committees expressly established or authorised by the public health organisation to which the officer is appointed where reasonably required by the public health organisation for the proper and efficient functioning of the hospital or hospitals concerned.
- (8) A visiting medical officer shall participate in an on-call roster for the provision of services as may reasonably be required by the public health organisation, and when so rostered the officer shall be readily contactable at all times and be able and prepared to attend the hospital concerned within a reasonable period of time.
- (9) A visiting medical officer:
 - (a) shall be professionally responsible for the proper clinical management and treatment of public patients under the officer's care in the hospital concerned;
 - (b) shall take reasonable steps to ensure that the clinical records related to the services provided by the officer, and those provided for patients under the officer's care, are maintained adequately and that such completed records include details of diagnosis, treatments and operations performed and a discharge summary completed in the manner determined by the hospital.
 - (c) shall comply with all rules and by-laws in force from time to time at the public health organisation, not being inconsistent with any of the rights and obligations of the visiting medical officer under this agreement.
- (10) The public health organisation where reasonably practicable shall provide:
 - (a) all ancillary, medical, nursing and clerical assistance and facilities, instruments and equipment reasonably necessary for the proper performance of the services to be rendered by a visiting medical officer under a sessional contract; and
 - (b) to the visiting medical officer upon request and free of charge, sufficient suitable and serviceable outer uniforms and duty garments, which shall remain the property of the public health organisation and which shall be laundered at the expense of the public health organisation.

5. SERVICES

- (1) The ordinary hours during which a visiting medical officer is to render services (other than those pursuant to a call-back or an on-call roster) shall be as agreed between the officer and the public health organisation, and shall be specified in the sessional contract on an annual basis or on the basis of a lesser specified period if the contract terminates sooner or if it is otherwise agreed; provided that a public health organisation shall only allocate work to the visiting medical officer which can reasonably be performed within the agreed number of ordinary hours.

- (2) In establishing the annual ordinary hours, or the ordinary hours on the basis of another specified period, under subclauses (1), (5) or (6) regard shall be had to:
- (a) the services to public patients recorded as having been provided and the hours recorded as having been worked by the visiting medical officer during the previous twelve months, or if the officer has been appointed for less than twelve months the preceding period of appointment, taking into account information available on each aspect of that officer's work such as, but not limited to, ward rounds, consultations, operating theatre sessions, other procedures, outpatient clinics, postgraduate teaching and committees to which the officer is appointed under clause 4(7);
 - (b) the clinical service needs and available resources of the public health organisation;
 - (c) the views of the visiting medical officer;
 - (d) the nature of the visiting medical officer's appointment;
 - (e) the experience, knowledge and ability of the visiting medical officer;
 - (f) any periods of leave which the visiting medical officer proposes or is required to take during the ensuing twelve months or relevant lesser period;
 - (g) any other relevant fact or circumstance.

Remuneration - options

- (3) In respect of remuneration for ordinary hours of services one of the following options shall apply:

Option 1 - Budgeted actual hours remuneration

- (a) (i) Where agreed by the parties, a visiting medical officer may be remunerated, to the limit of ordinary hours specified in the sessional contract, for the ordinary hours of services actually performed.
- (ii) The visiting medical officer shall be paid upon submission of a record and account to the public health organisation in accordance with clause 14.
- (iii) Under this option a plan of the services to be provided by the officer shall be specified.

Option 2 - Specified procedures remuneration

- (b) (i) For the purposes of this option, in establishing ordinary hours, or a portion thereof, the public health organisation and visiting medical officer may agree, and specify in the sessional contract, in respect of the following twelve months or relevant lesser period if the contract is to terminate sooner, the matters set out below:-

- types of procedures that the officer is to perform on public patients;
 - numbers of each such type of procedure.
- (ii) The visiting medical officer and the public health organisation shall make a reasonable assessment of the average time taken for the types of procedures concerned. The total ordinary hours shall be the sum of the hours thus assessed for each type of procedure multiplied by the number specified for each such procedure.
- (iii) The visiting medical officer shall be remunerated for the procedures actually performed, up to the numbers of each type of procedure specified in the sessional contract. For the purpose of calculating ordinary hours attracting remuneration, each such procedure shall be deemed to have taken the time assessed for such a procedure in accordance with sub-paragraph (ii).
- (iv) Any portion of ordinary hours specified in the sessional contract which is not established under sub-paragraph (i) shall be remunerated as follows:
- the portion of ordinary hours established under subparagraph (i) shall be deducted from the total ordinary hours established under clause 5(1), (5) or (6); and
 - the balance of ordinary hours then remaining shall be paid in twelve equal, or otherwise agreed, monthly instalments.

Option 3 - Agreed hours remuneration

- (c) Where Option 1 or 2 is not agreed upon by the parties, the visiting medical officer shall be remunerated for the number of ordinary hours specified in the officer's sessional contract in twelve equal, or otherwise agreed, monthly instalments.

Variation

- (4) The number of ordinary hours specified in a sessional contract may be varied at any time, either for a specified period or until the next anniversary date of the sessional contract, by an agreement in writing between the visiting medical officer and the public health organisation.

Annual Review

- (5) Not later than six weeks prior to each anniversary date of a sessional contract, the public health organisation and the visiting medical officer shall consult in a review of the number of ordinary hours of services specified in the sessional contract in respect of the next following year or of such lesser period until the termination of the sessional contract. If agreement is reached for a variation to that number of ordinary hours then the agreement shall be reduced to writing and the sessional contract shall be varied accordingly with effect as from the first day of the year or of such lesser period, as the case may be, to which the review related. Provided that this subclause shall not apply if

a sessional contract was made for a period of one year or less.

- (6) If agreement is not reached as a result of the review of the number of ordinary hours as contemplated in subclause (5) of this clause, then the public health organisation concerned may decide the number of ordinary hours of services to be provided by the visiting medical officer under the sessional contract for the next following year, or for such lesser period until the next anniversary date or termination of the sessional contract, whichever occurs first. Where a public health organisation decides the number of ordinary hours pursuant to this subclause it shall notify the officer in writing of its decision and the sessional contract shall be deemed to be varied so as to include the terms of that decision, unless the visiting medical officer notifies a dispute under subclause (8).
- (7) If by the anniversary date of a sessional contract the visiting medical officer's ordinary hours of services for the next following year, or relevant lesser period, have not been established either by agreement under subclause (5) or decision under subclause (6), the visiting medical officer shall continue to provide services and shall be remunerated each month under the sessional contract on the basis of the average number of ordinary hours of services performed per calendar month in the twelve months prior to the anniversary date, until agreement as to such ordinary hours is reached or a decision is made under subclause (6).

Dispute

- (8) (a) Where a visiting medical officer is dissatisfied with a decision made in accordance with subclause (6) of this clause the visiting medical officer shall give notice in writing to the public health organisation of a dispute within 14 days of the receipt of written notification of such decision, such dispute to be dealt with in accordance with clause 18.
- (b) Where such dispute is notified by the visiting medical officer in accordance with paragraph (a) of this subclause, then pending resolution of the dispute, the visiting medical officer shall continue to provide services and be remunerated each month under the sessional contract on the basis of the average number of hours of services performed per calendar month in the twelve months prior to the anniversary date; provided that if the dispute has not been resolved within three months of notification of such dispute (or within such further period as may be agreed between the parties), then paragraph (c) of this subclause shall apply.
- (c) If, within three months of notification of such dispute (or within such further period as may be agreed between the parties), the dispute has not been resolved and is not the subject of mediation or arbitration under clause 18, then the decision of the public health organisation referred to in paragraph (a) of this subclause shall apply and the sessional contract shall be deemed to be varied so as to include the terms of that decision.

Other Matters for Annual Review

- (9) At the time of the review of ordinary hours under subclause (5), the public health organisation shall also:

- (a) review the visiting medical officer's service and performance under the sessional contract during the preceding 12 month period;
- (b) consult with the visiting medical officer on the scope of the officer's practice within the public health organisation and the resources required to support the officer in such practice in the next following year; and
- (c) consult with the visiting medical officer on the officer's level of participation in the on-call roster in the next following year. If a visiting medical officer is dissatisfied with the level of participation in the on-call roster proposed by the public health organisation, then the dispute provisions set out at subclause (8) can be invoked.

Cancelled Operating Theatre Time

- (10) Where a visiting medical officer has a pre-arranged operating theatre session cancelled by the public health organisation:
- (a) in the case of an anaesthetist, with less than 28 days notice of such cancellation; or
 - (b) in the case of a regional visiting medical officer who is not an anaesthetist, with less than 14 days notice of such cancellation; or
 - (c) in the case of a visiting medical officer other than of a kind referred to in paragraph (a) or (b), with less than 7 days notice of such cancellation,

the visiting medical officer is entitled to be paid for that portion of the cancelled time that is reasonably estimated would have involved the treatment of public patients at the hourly rates specified in clauses 7 and 8 of this Determination, on the condition that the officer attends the public health organisation to provide services for the relevant period in lieu of the cancelled theatre session unless excused from such attendance by the public health organisation. For the purposes of this clause, services includes:

- (a) undertaking clinics or procedures within the scope of the officer's clinical privileges;
 - (b) undertaking quality assurance or review activities specified by the public health organisation; or
 - (c) undertaking training and education activities specified by the public health organisation.
- (11) Where a visiting medical officer cancels a pre-arranged operating theatre session, and the cancellation is not due to illness, the officer is required to make up the cancelled time over the ensuing 14 day period at time/s of mutual convenience to the officer and the public health organisation. If such mutually convenient time is unavailable the visiting medical officer will cooperate with the public health organisation in examining the feasibility of alternate arrangements with another medical practitioner for the performance of operations or procedures upon public patients affected by such cancellation.

6. CLASSIFICATIONS

- (1) A visiting medical officer on appointment by a public health organisation shall be classified as a general practitioner, specialist or senior specialist for the purposes of the officer rendering services under a sessional contract and in ascertaining the officer's remuneration, such classification is to be based on the officer's qualifications and experience and according to the criteria contained in the respective definitions in this Determination of those classifications.
- (2) A visiting medical officer may apply to the public health organisation for promotion to a higher classification of specialist or senior specialist, as appropriate, and the application shall be considered within eight weeks and according to the criteria contained in the respective definitions in this Determination of those higher classifications.
- (3) Such promotion will be considered by the public health organisation after considering the advice of the credentials committee.

7. REMUNERATION FOR SERVICES

A visiting medical officer shall be paid the hourly rates of remuneration for each ordinary hour specified in a sessional contract (and on a proportionate basis to the nearest quarter hour) as set out in Annexure A of this Determination.

8. BACKGROUND PRACTICE COSTS

A visiting medical officer shall be paid the background practice costs hourly rates as set out in Annexure B to this Determination (and on a proportionate basis to the nearest quarter hour) during which the officer provides services at a public health organisation during ordinary hours, on a public holiday and on a call-back, as an allowance for expenses incurred in background practice costs.

9. SUPERANNUATION

- (1) Superannuation shall be payable as per the *Superannuation Guarantee (Administration) Act 1992* as varied from time to time.
- (2) Subject to any relevant Commonwealth legislation, NSW Department of Health Policy Directives, and any ruling or determination by the Australian Taxation Office, a visiting medical officer may elect, subject to the agreement of the public health organisation, to sacrifice all or part of the payments made to him or her as additional superannuation contributions.

10. ON-CALL AND CALL-BACK

- (1) A visiting medical officer shall be paid the hourly on-call allowance as set out in Annexure B to this Determination for each hour (or part thereof) the officer is rostered to

be on call and while travelling or rendering services pursuant to a call back.

- (2) The on-call allowance shall not be payable during periods a visiting medical officer is on leave of absence.
- (3) Where a visiting medical officer is rostered to be on-call to more than one hospital at the same time the officer shall be entitled to receive an on-call allowance only from that hospital to which the officer has the greatest on-call commitment, or where the on-call commitments are equal the officer shall receive an on-call allowance only from one hospital.
- (4) Subject to sub-clause (5), in respect of a call-back, a visiting medical officer shall be remunerated as follows:
 - (a) as to services provided during a call-back within the hours of 8.00 am to 6.00 pm Monday to Friday inclusive - at the officer's ordinary hourly rate of remuneration plus a loading of 10 percent, except as to a call-back on a public holiday when the loading shall be 50 percent;
 - (b) as to services provided during a call-back outside the hours of 8.00 am to 6.00 pm Monday to Friday inclusive - at the officer's ordinary hourly rate of remuneration plus a loading of 25 percent, except as to a call-back on a public holiday when the loading shall be 50 percent;
 - (c) the duration of a call-back shall include the actual travelling time from the place of contact to the hospital concerned and return, subject to a maximum of 20 minutes travel each way;
 - (d) the minimum payment for any one call-back, including travelling time, shall be one hour at the officer's ordinary hourly rate of remuneration plus the appropriate loading.
- (5) A regional visiting medical officer who:
 - (a) provides a call-back service at a regional hospital; and
 - (b) whose usual place of residence is within a 50 kilometre radius of the regional hospital where the call-back service is provided,

shall be paid a further loading as specified in Annexure C of this Determination on the rates payable under sub-clause (4) for the call-back.

11. PUBLIC HOLIDAY REMUNERATION

Where a visiting medical officer is required by the public health organisation to render services on a public holiday, other than during on-call and call-back, the officer shall be paid at the ordinary hourly rate of remuneration plus a loading of 50 percent.

12. UNPAID LEAVE OF ABSENCE

- (1) A visiting medical officer shall be entitled to unpaid leave of absence on a public holiday unless the public health organisation has given reasonable notice that it requires the officer to render services on any such day.
- (2) A visiting medical officer shall be entitled to unpaid leave of absence during any period the officer is unable to render services due to illness, provided that the officer shall notify the public health organisation of such incapacity as soon as it is reasonably practicable.
- (3) Unpaid leave of absence shall be granted to a visiting medical officer as annual holidays in one or more periods aggregating five calendar weeks per year at times agreed between the officer and the public health organisation. Such leave shall not accrue from year to year and it must be taken within six months of becoming due.
- (4) Unpaid leave of absence shall be granted to a visiting medical officer as study and conference leave in one or more periods to a maximum in the aggregate of two calendar weeks per year at times agreed between the officer and the public health organisation. Such leave may be accumulated from year to year to a maximum of four weeks.
- (5) Unpaid leave of absence shall be granted to a visiting medical officer as long service leave aggregating two calendar months after providing services for a period of ten years. Thereafter, further unpaid leave of absence shall be granted on the basis of one calendar month for each additional period of two years during which the officer renders services. Such leave shall be allowed at times agreed between the officer and the public health organisation.
- (6) Additional periods of unpaid leave of absence may be granted to a visiting medical officer at times agreed between the officer and the public health organisation.

13. PROFESSIONAL SUPPORT FOR REGIONAL VISITING MEDICAL OFFICERS

- (1) As at 1 January each year (commencing on 1 January 2008), a regional visiting medical officer:
 - (a) who has held an appointment continuously for the immediately preceding 12 months; and
 - (b) who has provided at least 450 ordinary and/or call-back hours of services over the preceding 12 months at one or more regional hospitals; and
 - (c) whose usual place of residence is within a 50 kilometre radius of at least one regional hospital where such services are provided;

shall be entitled to claim reimbursement for expenses incurred in respect of the professional support of the visiting medical officer up to the amount set out at Annexure C of this Determination.

- (2) As at 1 January each year (commencing on 1 January 2008), a regional visiting

medical officer:

- (a) who has held an appointment as such continuously for the immediately preceding 12 months; and
- (b) who has participated in a one in four or more frequent basis over the preceding 12 months in an on call roster applying in at least one regional hospital;
- (c) whose usual place of residence is within a 50 kilometre radius of such hospital

shall be entitled to claim reimbursement for expenses incurred in respect of the professional support of the visiting medical officer up to the amount set out in Annexure C of this Determination.

- (3) A visiting medical officer may be eligible for grants under both sub-clauses (1) and (2).
- (4) For the purposes of this clause, professional support expenses include:
 - (a) travel, accommodation, conference or course costs in respect of continuing medical education;
 - (b) costs of locum cover while the visiting medical officer is on unpaid leave;
 - (c) such other item/s in connection with the ongoing professional support of the visiting medical officer as a public health organisation may approve in any particular case.
- (5) Reimbursement of expenses under this clause will be made upon production of verification of expenses.
- (6) Any entitlements under either sub-clause (1) or (2) shall be able to accrue for up to two years, provided the officer continues over that two year period to satisfy the criteria set out in subclauses 13(1) and (2) above.
- (7) A visiting medical officer is not eligible to receive a grant under either sub-clause (1) or (2) from more than one public health organisation per calendar year. Where a visiting medical officer would otherwise satisfy the criteria for eligibility for a grant under sub-clauses (1) or (2) in respect of more than one public health organisation, the grant is payable by that public health organisation at which the officer has the greatest service commitment, or in the case of an equal service commitment at each organisation, by any public area health organisation.

14. RECORD OF SERVICES

- (1) Subject to subclause (2), a visiting medical officer shall maintain a record, in a form prescribed and provided by the relevant public health organisation, of services rendered by the officer under the sessional contract. Such record shall indicate in respect of each of the services so rendered:
 - (a) the date, commencing and finishing times, full name and/or medical record

- number of the patient and nature of service;
- (b) particulars of on-call periods;
 - (c) for call-backs, the name and/or designation of the person requesting the call-back, and appropriate entry by the visiting medical officer in the medical record of the relevant attendance and/or treatment;
 - (d) particulars of teaching, training and committee work;
 - (e) particulars of leave of absence.
- (2) Where a public health organisation and a visiting medical officer agree that sufficient information is otherwise available to the public health organisation from the medical records or the visiting medical officer's personal records, then so long as such information continues to be available there is no requirement for the visiting medical officer to provide the full name and/or medical record number of patients.
 - (3) Where sufficient information to satisfy subclause (1) is not provided or where sufficient information ceases to be otherwise available from the medical records or the visiting medical officer's personal records to satisfy subclause (2), then future payments to the officer for a specified period will require the provision by the officer of additional details, such details and period to be determined by the public health organisation.
 - (4) The record referred to in subclause (1) of this clause shall be maintained for each calendar month during which services are provided by an officer, and it shall be submitted to the public health organisation no later than the fifteenth day of the next succeeding calendar month.
 - (5) The record when so submitted pursuant to subclause (4) of this clause shall be accompanied by an account for payment. The public health organisation shall make payment to the visiting medical officer in respect of the account within 30 days of its receipt.
 - (6) Should a public health organisation fail to make payment to the visiting medical officer within 45 days of receipt of an account for payment in accordance with subclauses (1) – (5), interest shall accrue on the outstanding account from the date as specified in subclause (5) for payment at the Supreme Court interest rate applicable at the time.
 - (7) The public health organisation in making payment of an account to an officer shall advise details of how the payment is made up as between the various services rendered.

15. SUSPENSION OF SESSIONAL CONTRACT

- (1) Subject to Part 4 of Chapter 8 of the *Health Services Act 1997*, the public health organisation may suspend the appointment of a visiting medical officer in accordance with any applicable by-laws where the public health organisation considers it necessary in the interests of the hospital to which the officer is appointed.

- (2) Where the visiting medical officer is so suspended, the respective rights and obligations of the parties under the sessional contract shall be suspended for the duration of that suspension.

16. TERMINATION OF SESSIONAL CONTRACT

- (1) A sessional contract shall be terminated:
- (a) upon the expiry of the period for which it was made or on such earlier date as may be agreed between the visiting medical officer and the public health organisation;
 - (b) by three months' notice in writing given by either the visiting medical officer or the public health organisation;
 - (c) by four weeks' notice in writing given by the visiting medical officer if dissatisfied with a decision as to the fixation of ordinary hours by the public health organisation pursuant to clause 5(6) of this Determination following an annual review, provided that the notice of termination is given within seven days of the officer receiving notification in writing of the decision;
 - (d) if the visiting medical officer ceases to be registered as a medical practitioner;
 - (e) if a condition is placed on the visiting medical officer's registration as a medical practitioner which substantially precludes the officer from providing services under the sessional contract;
 - (f) if the visiting medical officer becomes permanently mentally or physically incapable of rendering services under the sessional contract;
 - (g) if the visiting medical officer commits serious and wilful misconduct; or
 - (h) if the visiting medical officer's appointment is terminated by operation of any Act or regulation.
- (2) On the termination of a sessional contract, any amount due and payable to the visiting medical officer pursuant to the sessional contract shall be paid at the time of such termination or as soon thereafter as reasonably practicable.

17. PROFESSIONAL INDEMNITY COVER

- (1) Subject to sub-clauses (2) and (3) below, a public health organisation must offer a medical practitioner proposed for appointment as a visiting medical officer, who is eligible for professional indemnity cover from the New South Wales Treasury Managed Fund under the applicable policies of the NSW Department of Health as issued from time to time, an approved contract of liability coverage covering the term of the practitioner's proposed appointment as a visiting medical officer at the same time it provides a written service contract.

- (2) Where the proposed term of the sessional contract is for longer than 6 months, the approved contract of liability coverage and the written sessional contract must be provided to the practitioner not less than 14 days prior to the commencement of the term of the sessional contract.
- (3) A visiting medical officer must have approved professional indemnity insurance in respect of civil liability arising from the officer's practice of medicine at a public health organisation, including in respect of persons who elect to be private patients, to the extent that such liability is not covered by an approved contract of liability coverage.

18. DISPUTE RESOLUTION PROCEDURE

- (1) For the purposes of this clause a 'dispute' means any dispute arising between a visiting medical officer and the public health organisation at any time as to any matter of any nature arising under or in connection with a sessional contract, including but not limited to matters relating to clinical privileges but excluding a matter relating to the non-reappointment, suspension or termination of appointment of the visiting medical officer.
- (2) A party who wishes to invoke the provisions of this clause must give written notice to the other party/parties to the dispute specifying the nature of the dispute.
- (3) On receipt of written notice specifying the nature of the dispute, the parties to the dispute must, within 14 days of receipt of the notice, seek to resolve the dispute by conference.
- (4) If the dispute is not resolved within 14 days, or within such further period as agreed between the parties, after the convening of a conference under sub-clause (3) then the dispute is to be referred to mediation. Each party must serve upon the other the name(s) of a mediator(s).
- (5) The mediator shall be agreed upon between the parties, or failing agreement, appointed by the President of the Law Society of NSW.
- (6) The mediator's fees shall be shared equally between the parties.
- (7) The parties to the mediation may be supported by persons of the parties' choice.
- (8) In the event that the dispute has not been settled within 28 days, or such other time as agreed to in writing between the parties after the appointment of a mediator, either party may refer the dispute to arbitration.
- (9) The arbitrator is not to be the same person as the mediator.
- (10) Such arbitration shall be conducted by a single arbitrator. The arbitrator shall be a legal practitioner of at least seven years' post qualification experience. The arbitrator shall be agreed upon between the parties, or failing agreement, appointed by the President of the Law Society of NSW. The parties may be legally represented.

- (11) At the request of the visiting medical officer, the AMA (NSW) shall be entitled to appear and be represented in the arbitration.
- (12) At the request of the public health organisation, the NSW Department of Health shall be entitled to appear and be represented in the arbitration.
- (13) In the event of either the AMA (NSW) or the NSW Department of Health appearing in the arbitration pursuant to sub-clauses (11) or(12), the other organisation shall be entitled to appear and be represented as of right.
- (14) The arbitrator's fees shall be shared equally between the parties unless otherwise ordered by the arbitrator.
- (15) It is agreed between the parties that the arbitrator shall determine all questions arising for determination in the course of the arbitration by reference to considerations of general justice and fairness.
- (16) The determination of the arbitrator shall be final and binding upon the visiting medical officer and the public health organisation.

19. NOTICES

Any notice required by a sessional contract to be given in writing shall be properly served if delivered by hand to the addressee personally or if sent by prepaid registered mail, facsimile or telex transmission to the addressee at the address furnished in writing to the addressor, and shall be deemed to have been received by the addressee on the date of hand delivery or on the date the facsimile or telex transmission was recorded or seven days after the date of posting.

20. OPERATION AND EFFECTIVE DATE

- (1) This Determination shall rescind and replace the provisions of all previous determinations made by an arbitrator under Section 29M(l) of the *Public Hospitals Act 1929*.

- (2) This Determination shall apply to all visiting medical officer appointments under sessional contracts throughout the State of New South Wales, other than those for pathologists and radiologists.
- (3) This Determination shall have effect on and from 9 October 2007.

.....
The Honourable Justice M. J. Walton
Arbitrator

SCHEDULE 1

Regional Hospitals

(As at 9 October 2007)

Albury Base Hospital	Lismore Base Hospital
Armidale Hospital	Kempsey District Hospital
Bathurst Base Hospital	Maitland Hospital
Blue Mountains District ANZAC Memorial Hospital	Manning Base Hospital
Broken Hill Health Service	Murwillumbah Hospital
Coffs Harbour Base Hospital	Orange Base Hospital
Dubbo Base Hospital	Port Macquarie Base Hospital
Goulburn Base Hospital	Shoalhaven Hospital
Grafton Base Hospital	Tamworth Base Hospital
Griffith Base Hospital	Tweed Heads District Hospital
	Wagga Wagga Base Hospital

ANNEXURE A**SESSIONAL VMO RATES****REMUNERATION FOR SERVICES**

A visiting medical officer shall be paid the following hourly rate of remuneration for each ordinary hour (and on a proportionate basis to the nearest quarter hour) specified in a sessional contract:

Classification	Sessional Rate (per hour)			
	9 October 2007 13%	1 January 2008 2.5%	1 January 2009 2.5%	1 January 2010 2.5%
a) General Practitioner				
i) with less than 5 years experience	\$115.10	\$118.00	\$120.95	\$124.00
ii) with at least 5 years experience and/or who has been admitted to Fellowship of the Royal Australian College of General Practitioners and/or Fellowship of the Australian College of Rural and Remote Medicine	\$147.85	\$151.55	\$155.35	\$159.25
b) Specialist	\$167.45	\$171.65	\$175.95	\$180.35
c) Senior Specialist	\$179.75	\$184.25	\$188.85	\$193.55

ANNEXURE B**BACKGROUND PRACTICE COSTS**

Classification	Rate per hour			
	9 October 2007	1 January 2008	1 January 2009	1 January 2010
a) Anaesthetist, Physician and General Practitioner	\$21.05	Rate as at 9 October 2007 adjusted in line with the annual increase in the All Groups Consumer Price Index for Sydney (as at 30 June in the preceding year)	Rate as at 1 January 2008 adjusted in line with the annual increase in the All Groups Consumer Price Index for Sydney (as at 30 June in the preceding year)	Rate as at 1 January 2009 adjusted in line with the annual increase in the All Groups Consumer Price Index for Sydney (as at 30 June in the preceding year)
b) Surgeon	\$35.10	Rate as at 9 October 2007 adjusted in line with the annual increase in the All Groups Consumer Price Index for Sydney (as at 30 June in the preceding year)	Rate as at 1 January 2008 adjusted in line with the annual increase in the All Groups Consumer Price Index for Sydney (as at 30 June in the preceding year)	Rate as at 1 January 2009 adjusted in line with the annual increase in the All Groups Consumer Price Index for Sydney (as at 30 June in the preceding year)

And on a proportionate basis to the nearest quarter hour.

ON-CALL AND CALL BACK

Rate of Allowance (per hour)			
9 October 2007	1 January 2008	1 January 2009	1 January 2010
\$10.60	\$10.85	\$11.10	\$11.40

ANNEXURE C**REGIONAL VISITING MEDICAL OFFICER ARRANGEMENTS**

Clause reference	Item	Amount
10(5)	Additional call-back loading	10%
13(1)	Professional support for regional practitioners	Up to \$10,000 (inclusive of GST) per calendar year
13(2)	Professional support for regional practitioners	Up to \$5,000 (inclusive of GST) per calendar year